

## **Irina Paliashvili: "Do not put legal business under pressure"**



*Ukraine's legal services market is an incredibly intimate phenomenon among the former Soviet Union republics, retaining an appealing identity: with some exceptions, it has no place for foreigners, and it is dominated by motivated local legal firms. The biggest shock for the rapidly growing market was the financial crisis, which spread across Ukraine in 2008 and consequences of which are here even nowadays. As a result, the business*

*development model had to be revised. Irina Paliashvili, President of the Ukrainian legal firm RULG – Ukrainian Legal Group, P.A., the founder and co-chairman of the Forum of Legal firms in the CIS countries, explained in the interview to RAPSI that the legal atmosphere has drastically changed and it is time to talk about new reality.*

**- Can one identify common trends within the historical development of the legal markets throughout the post-Soviet republics to a specific point, or have things developed quite individually – even within the Commonwealth of Independent States (CIS)?**

- Everything is very individual because, first, the traditions that have evolved in the legal sphere of the countries are different. Yes, during Soviet times, each republic had its own Civil Code, though the underpinning of the legislation was the same for all. Nowadays, the post-Soviet republics are looking back to their own legal traditions and, at the same time, they are turning their heads to the legislation of the European Union. Moldova perhaps has succeeded most of all in this sense.

As a whole, this is a general trend – harmonization of law and integration of global standards. Against a backdrop of various economic conditions and a different level of development, we get an extremely curious "cocktail." Perhaps the issues common for legal firms as of today are the development of their business, local legal markets, and attracting clients. No less pressing are the issues of professional regulation and meeting professional standards. We discussed this with colleagues at the 8th Forum of legal firms of CIS countries recently held in Kyiv and Odessa.

**- As far as I understand, a principal issue today is the market reshuffle. What is the ideal development model?**

- It's not worth reinventing the wheel. It is necessary to study closely the markets and the private practice in countries that are deemed to be the leaders in the global legal market, and adopt things that fit the national development model. It is also worth building on the clients' demands existing under the same globalization conditions and looking for something familiar in local markets. It is necessary to adjust somewhat to a client, taking into account the rapid changes and transformations of our times. Under such conditions, the need is in maximum market freedom, and I stand for its self-regulation. In the end, we have to get together with colleagues and decide what we want, and what the future of our profession is.

**- Will extreme openness and freedom bring about extremes? Are you afraid that foreign and international companies will take the market?**

- There is no such problem in Ukraine because there are few international legal firms here and national companies dominate the market.

**- Nevertheless, at the CIS forum there was no shortage of foreign firms. In any case, I have a feeling that there were fewer Ukrainian firms than foreign ones...**

- In spite of the Forum being open for all those who are eager to participate, there is one key factor: a legal firm's participation in the Forum makes sense if it is somehow focused on international business, such as if it at least has an English web site. We are focused on a community of legal firms from the CIS countries eager to be presented on the global market. We are open for all, though the law firms will decide whether they want to spend money and time.

The Ukrainian regional panel at the Forum was splendid. We couldn't even imagine such a success back in 2006, when we held the Forum for the first time. Therefore, after seven years, such a panel was held at such a high level: Kharkiv, Lviv, and Odessa. The legal firms had an opportunity to speak about their clients' profiles and how they have managed to build their business.

**- What about the participation of the Russian firms in the Forum?**

- Russia is the biggest legal market in the CIS. Accordingly, the Russian delegation is traditionally the most well represented. Yegorov Puginskiy Afanasiev and Partners, Pepeliayev Group, and Gorodiskiy and Partners participate actively in the Forum, and there are representatives from the Russian regions. Last year, for instance, Olga Romanova from Kursk (Legal Group RATUM) and Yuri Pustovit (Managing Partner of the Law Bureau Yug) from Krasnodar were among the delegates. Many other legal firms from Russia's regions take part in our Forum. On average, 10 to 15 Russian firms participate in the forum annually, and the number of Ukrainian firms is usually between five and nine.

**- Anyway, how can you explain the small presence of Western legal firms in the Ukrainian market?**

- It's all about the features of the market formation during the downfall of the Soviet Union and the establishment of independent Ukraine. My generation, including -for example - Evgeny Arievidh (the partner of the legal firm Baker & McKenzie, Moscow), was lucky. Having been trained in the US and having received an LL.M., we appeared at a favourable time and place with an excellent education and knowledge of foreign languages. When I was a trainee with Jenner & Block in Chicago 1991, the Soviet Union dissolved. Accordingly, I came back to an absolutely different country. Our generation was quick on the uptake to establish companies in Ukraine and, at the time of the emergence of other Western firms, the market was mature and practically all the clients were shared by that time. Nowadays foreign companies cannot compete with us; therefore, their presence is downright unjustified. Our costs are lower, while profit is not skyrocketing, and we are able to compete in terms of professional skills.

**- What about competence among local Ukrainian firms?**

- At some point, there was no competition at all. Our firm in the early 1990's was practically the first one keeping to high professional standards in Ukraine along with a number of so-called cooperatives. At that point, the firm had a couple of administrators and three partners, the young American lawyer Alex Frishberg (a partner of the legal firm Frishberg & Partners) among them. At some point Ukraine held a pompous economic forum (the visiting session of the World Economic Forum) attended by many major international companies, and among legal advisers, there was no one besides those three. After that, we broke up our firms and engaged more clients. Other legal firms mushroomed, though competition was very weak. On account of the economic boom of 2000, we hardly handled our clients, though practically with or other ones. Legal advisers were in great demand and recruiting companies dragged them from firm to firm. Of course, the headache was that of our partners who worried from day to day. Our firm

was obliged to turn away new clients, referring them to other firms. Still, however, we were suffocating under the round-the-clock workload.

**- As far as I understand, you have defused the tension of 2008 when the market faced slowdown provoked by the financial crisis?**

- Whereas promising young lawyers who studied in Great Britain or America with an LL.M. may have had their pick in terms of selecting a workplace earlier, simply finding work can be impossible these days. As a result, they will be setting up their own firms without a solid background. However, this is not a big problem because these young professionals, in principle, have been trained well and know English. At the same time, local law firms need only a small office and a website. The profession actually is an unregulated one without any governance, so anyone can broadcast any information on the web site – and lo and behold, a legal firm is in place.

Now some legal firms say that they have bridged the pre-crisis staff level, though the majority of such firms have downsized and they are looking for new clients in such a condition. However, I believe that, prior to the crisis, the market and the business were overheated.

**- How did your firm cope with the situation?**

- In Ukraine, the crisis exploded in October 2008, though in America business stagnated three months earlier. I was working in our Washington office at this time and witnessed all this, and then I moved to Kyiv in early September and immediately posed the issue of cutting costs and moving to a more low-key office. My words were made light of because this was the busiest month of the entire history of our firm. The staff simply failed to understand that a storm was underway and nobody was preparing for it. I had to go to great efforts to convince my partners and colleagues that immediate action must be taken. When the crisis broke out, we found a new office and cut our expenses. Immediately on October 1 business stopped. Fortunately, we were psychologically and financially prepared for this.

**- How did your colleagues endure the crisis? Have many firms in Ukraine closed?**

- Some were forced to close and the staffing of many Western companies was reduced to one or two persons. As a result, some of them stated that they had offices in Ukraine, though in principle this was not so. For example, I can remember a situation when a client said that his counterparty was represented by an Austrian firm with an office in Kyiv. I did not find the office and when I called the headquarters of the firm in Austria, I was told that the office in Kyiv was a temporary one.

Western firms have downsized to a minimum, and there are not many English and American firms on the local market nowadays. The remaining ones are Baker & McKenzie, Dentons (formed via the merger of Salans, SNR Denton and Fraser Milner Casgrain in March 2013), Squire Sanders, CMS Cameron McKenna, and maybe some other ones whom I cannot remember, though the others have faded into oblivion.

Many local Ukrainian firms have splintered and there were notorious transfers of partners from one firm to another one. Indeed, in spite of ups and downs, expectations were not met and people sought out other opportunities. Accordingly, new boutique firms emerged and many new firms were set up by young lawyers that were not needed by anyone at that time.

**- And how severe are the consequences of the crisis?**

- The crisis was favorable in the sense that it cooled the market. However, it resulted in systemic changes in business and completely changed firm-and-client relations at both the global and local levels. At a conference in February, organised by the Ukrainian Association of Legal Experts, Pavlo Sheremet (the president of the Kyiv School of Economics) gave a definition of the phenomenon – a dazzling disorientation. I believe that there is no sense of saying that all is okay and that we are reaching the pre-crisis level. There will be no pre-crisis level ever again, and as such the subject of our 8th Forum is the new reality. It is worth talking to corporate legal advisers who earlier had performed mainly managerial functions, such as outsourcing of tasks, performance analysis and budget control. Nowadays the outsourcing principle is being changed in the sense that corporate legal advisers of major international companies get to work themselves, increase staffing and deny the services of external legal firms. They are outspoken in saying that, "We don't need you anymore."

**- Aren't you afraid?**

- No, we need to change because in such a form and in such volumes private practice is not needed, and we have to move forward.

**- English law is extremely popular in Russia as a means of forum shopping. Is it the same in Ukraine?**

- Absolutely the same. Our oligarchs prefer to litigate in London, the funny thing being that they are all from one city, Dnepropetrovsk. They grew up together and in kindergarten, they obviously had sat on the same potties, though they prefer to litigate with one another in London.

**- What is the reason for such a willingness to go to London?**

- There are several factors. Firstly, Ukraine has a weak and extremely unstable court system. It is no secret that it is corrupted and subject to political influence. This is hearsay at every bend. Who wants to go to a local court and prove something without counting on a just decision? Secondly, this is a tribute to fashion. Thirdly, businessmen with big money are flattered that their interests are represented by prominent English lawyers. Of course, the underdevelopment of local legislation is telling. All of this results in the situation that under current conditions business cannot be put to a legal system, in which it feels uncomfortable. It is impossible to make all play to the rules, which own business does not accept. It will find how to escape the system and the sole solution is to make it attractive for business. I absolutely agree with Dmitri Afanasiev (the legal bureau Egorov, Puginsky, Afanasiev and partners): it is necessary to delete the imperative norms in those cases where they are not needed, and to keep dispositive norms. English law, finally, is attractive because it provides a choice, it is not so imperative.

**- But not just anyone can opt for English law, and the London court.**

- All right, one of the issues is the jurisdiction, and many cannot overcome this barrier. Although we are talking about foreign "investments" in the English legal community, English courts refuse to consider disputes for lack of jurisdiction. Moreover, the courts acknowledge such a problem as forum shopping.

**- How Ukraine is trying to handle the problem? Does it encourage the local business to keep away from London courts?**

- Legislation is underway and changing, though I do not see any specific changes in this area. However, the leapfrog starts from the thing that there are two Codes – the Civil one and the Commercial one. Two independent groups worked on them. As a result, the Civil Code conceptually differs from the Commercial one, and each contradicts the other. Let us add herein the ambiguous legal practice – that's

the Ukraine's legal system in general. In essence, we need only one Civil Code as in Russia and the majority of European countries.

**Interviewed by Vladimir Yaduta, RAPSI**